

Message Text

LIMITED OFFICIAL USE

PAGE 01 MOSCOW 13635 01 OF 03 141357Z
ACTION EUR-12

INFO OCT-01 ISO-00 TRSE-00 EB-08 L-03 CPR-02 CA-01
SCS-06 CIAE-00 INR-10 NSAE-00 /043 W
-----052366 141421Z /46
P 141343Z JUN 78
FM AMEMBASSY MOSCOW
TO SECSTATE WASHDC PRIORITY 3068
INFO USDOC WASHDC
AMCONSUL LENINGRAD

LIMITED OFFICIAL USE SECTION 01 OF 03 MOSCOW 13635

USDOC FOR BEWT

E.O.11652:N/A
TAGS:EGEN, ETRD, UR
SUBJECT:NEW SOVIET TAXATION DECREE

REF: (A) STATE 148122, (B) MOSCOW 13227, (C) MOSCOW
13000, (D) MOSCOW A-149

SUMMARY: DISCUSSION JUNE 12 WITH MINISTRY OF FINANCE
OFFICIALS LEADS US TO CONCLUSION THAT CHIEF IMPACT OF
NEW SOVIET TAX DECREE WILL BE TO IMPOSE INDIVIDUAL INCOME
TAX REQUIREMENT ON PERSONNEL OF AMERICAN FIRMS HAVING
REPRESENTATIONAL OFFICES IN USSR. DEPUTY MINISTER
MASLENNIKOV ACKNOWLEDGED THAT INCOME DERIVED FROM SALES
TO SOVIET FOREIGN TRADE ORGANIZATIONS (FTO'S) IS NOT
SUBJECT TO TAXATION, AND MINISTRY OFFICIALS SEEMED HARD
PRESSED TO GIVE EXAMPLE OF ANY OTHER CORPORATE INCOME
WHICH MIGHT BE TAXABLE (ALTHOUGH THEY DID NOT RULE IT OUT
IT IS ALSO POSSIBLE THAT INCOME TAX WILL BE IMPOSED ON
U.S. SPECIALISTS WORKING FOR MORE THAN ONE YEAR DURATION
ON SOVIET CONSTRUCTION PROJECTS, BUT SOVIETS SUGGESTED
THAT ONE YEAR LIMITATION ON EXEMPTION IN PRESENT TAX
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 MOSCOW 13635 01 OF 03 141357Z

CONVENTION COULD BE EXTENDED BY MUTUAL CONSENT.
CONCERNING JOURNALISTS, SOVIETS STATED THAT EXEMPTION
IS ABOUT TO EXPIRE, WITH U.S. JOURNALISTS SUBJECT TO
SOVIET TAX IF SOVIET JOURNALISTS IN U.S. ARE TAXED.
MINISTRY OFFICIALS REFERRED TO DISCUSSIONS WITH
DEPARTMENT OF TREASURY ABOUT PLANS OF INTERNAL REVENUE
SERVICE TO TAX AEROFLOT, WHICH THEY SAID WOULD LEAD TO

IMPOSITION OF TAX ON PAN AMERICAN AIRWAYS IN MOSCOW.
END SUMMARY.

1. E/C COUNSELOR AND EMBASSY OFFICERS MET WITH DEPUTY MINISTER OF FINANCE MASLENNIKOV, STATE REVENUES DEPARTMENT CHIEF MIROSHCHENKO, AND DEPARTMENT OF TAXATION CHIEF TUR JUNE 12 TO DISCUSS THE IMPLICATIONS OF THE NEW SOVIET TAXATION DECREE ON THE US-SOVIET CONVENTION ON TAXATION. SOVIETS STRESSED THROUGHOUT DISCUSSION THAT PLANNED TAXATION WAS RECIPROCAL AND THAT RATES WOULD BE BASED ON THOSE ASSESSED ON SOVIET CITIZENS IN FOREIGN COUNTRIES. THEY ACKNOWLEDGED THAT U.S. CITIZENS WERE IN SPECIAL AND FAVORED STATUS DUE TO EXISTENCE OF TAX CONVENTION, WHICH THEY AFFIRMED WOULD NOT BE AFFECTED BY SOVIET TAX

DECREE. HOWEVER, THEY APPEARED STILL TO BE LESS THAN WHOLLY CLEAR IN THEIR OWN MINDS HOW TAX WOULD BE APPLIED AND REFERRED TO INSTRUCTIONS ON HOW TO FILE TAX DECLARATION WHICH THEY SAID WOULD BE ISSUED SHORTLY.

2. INDIVIDUAL TAXATION. IT BECAME CLEAR THAT MAJOR IMPACT OF NEW DECREE ON U.S. CITIZENS WILL BE THEIR OBLIGATION TO PAY INDIVIDUAL INCOME TAX TO SOVIET GOVERNMENT IF THEY ARE RESIDENT IN USSR MORE THAN 183 LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 MOSCOW 13635 01 OF 03 141357Z

DAYS ANNUALLY. IF STATE AND LOCAL TAXES ARE IMPOSED ON SOVIET CITIZENS, OFFICIALS SAID, SOMETHING ANALOGOUS WOULD BE FOUND UNDER SOVIET LAW TO APPLY TO AMERICANS HERE SO THAT THERE WOULD BE "FULL RECIPROCITY." THE MINISTRY OF FINANCE WILL APPLY THE U.S. TAX RATE TO AMERICAN CITIZENS IN THE USSR. WHEN ASKED WHETHER THIS WAS POSSIBLE, IN LIGHT OF COMPLEXITY OF US TAX SYSTEM, TUR INDICATED THAT MINISTRY WOULD APPLY "PURE" PERCENTAGES OF US TAX RATES TO "NET INCOME." WHEN ASKED FOR LIKELY RATE. MASLENNIKOV GUESSED AT A FIGURE OF TWENTY-FIVE PERCENT, BUT IT WAS CLEAR THAT THIS WAS NO MORE THAN AN INSTANT ESTIMATE.

3. SPECIALISTS. IN CASE OF AMERICAN SPECIALISTS, SUCH AS THOSE ENGAGED IN ON-SITE CONSTRUCTION PROJECTS IN USSR, MINISTRY OFFICIALS SAID THAT THEY WOULD BE TAXED UPON EXPIRATION OF ONE YEAR EXEMPTION PROVIDED IN TAX CONVENTION. HOWEVER, THEY STRESSED THAT THEY WOULD BE WILLING TO EXTEND THIS PERIOD OF EXEMPTION AS NEEDED IF IT WERE DONE ON A RECIPROCAL BASIS.

4. JOURNALISTS. MASLENNIKOV NOTED THAT EXEMPTION

PROVIDED FOR JOURNALISTS UNDER TAX CONVENTION IS TWO YEARS AND IS SOON TO EXPIRE. AFTER THAT DATE, US JOURNALISTS IN USSR WILL BE SUBJECT TO TAXATION IF SOVIET JOURNALISTS IN THE U.S. ARE TAXED.

5. CORPORATE TAXATION: WITH REFERENCE TO CORPORATE TAXES, SOVIET OFFICIALS CONFIRMED THAT U.S. REPRESENTATIONS WILL NOT BE TAXED ON INCOME FROM COMMERCIAL ACTIVITY DERIVED FROM SALES TO FTO'S. THEY STATED THAT TAX WOULD APPLY TO OTHER FORMS OF INCOMES DERIVED BY U.S. FIRMS, BUT IN RESPONSE TO DIRECT REQUEST TO GIVE EXAMPLE OF TAXABLE INCOME, THEY FELL BACK TO VAGUE REFERENCE TO POSSIBILITY THAT "LIFE" ITSELF MIGHT GIVE RISE TO SUCH. THE MINISTRY OFFICIALS ARGUED THAT DEFINITION OF INCOME HAD LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 MOSCOW 13635 01 OF 03 141357Z

BEEN THOROUGHLY DISCUSSED AND UNDERSTOOD DURING US-SOVIET

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 MOSCOW 13635 02 OF 03 141406Z
ACTION EUR-12

INFO OCT-01 ISO-00 TRSE-00 EB-08 L-03 CPR-02 CA-01
SCS-06 CIAE-00 INR-10 NSAE-00 /043 W
-----052463 141421Z /64

P 141343Z JUN 78
FM AMEMBASSY MOSCOW
TO SECSTATE WASHDC PRIORITY 3069
INFO USDOC WASHDC
AMCONSUL LENINGRAD

LIMITED OFFICIAL USE SECTION 02 OF 03 MOSCOW 13635

NEGOTIATIONS ON THE TAX CONVENTION. EXPENSES INCURRED IN USSR WOULD BE EXCLUDABLE. TAX PAID BY US FIRMS IN THE UNITED STATES, HOWEVER, WOULD NOT BE EXCLUDABLE, THEY STATED. THE MINISTRY OFFICIALS CITED THE 40 PERCENT TAX RATE AS APPLICABLE TO THE INCOME OF JURIDICAL PERSONS (THE GERMANS GOT A DIFFERENT IMPRESSION FROM MASLENNIKOV, WHO LED THEM TO BELIEVE THIS - LIKE

INDIVIDUAL TAX RATE - WOULD ALSO BE KEYED TO FOREIGN TAXATION ON SOVIET CITIZENS ABROAD), BUT THIS ISSUE SEEMS AMONG THE MORE CLOUDY ASPECTS OF THE NEW DECREE AT PRESENT.

6. AEROFLOT AND PAN AMERICAN: TUR ASSERTED THAT THE INTERNAL REVENUE SERVICE IS CURRENTLY CONSIDERING TAXING THE REVENUES OF AEROFLOT AND MENTIONED EXCHANGES ON THIS SUBJECT IN FEBRUARY OR MARCH WITH TREASURY. HE STATED THAT SHOULD THE IRS ACTUALLY START TO TAX AEROFLOT, THE MINISTRY WILL BEGIN TO CONSIDER TAXING PAN AMERICAN -- AND PRESUMABLY, UNDER THE PRINCIPLE OF RECIPROCITY, THE DECISION IS A FOREGONE CONCLUSION. BOTH TUR AND MASLENNIKOV KEPT INDICATING THAT THEY VIEWED TAXING AEROFLOT AS UNJUSTIFIED UNDER THE US-SOVIET TAXATION CONVENTION, SINCE AEROFLOT IS ACCORDING TO THEM A LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 MOSCOW 13635 02 OF 03 141406Z

GOVERNMENT, RATHER THAN A COMMERCIAL, ENTERPRISE. (COMMENT: THIS IS THE FIRST TIME EMBASSY HAS HEARD THAT THE IRS HAS THE MATTER UNDER CONSIDERATION.)

7. RETROACTIVITY: MASLENNIKOV STATED THAT ARTICLE 13 ON RETROACTIVITY OF THE PRESIDUM OF THE SUPREME SOVIET'S DECREE WILL NOT APPLY TO US CITIZENS AND FIRMS, DUE TO THE EXISTENCE OF THE TAX CONVENTION.

8. PROCEDURES FOR FILING: IN ANSWER TO A QUESTION REGARDING WHICH US CITIZENS AND FIRMS WOULD BE REQUIRED TO COMPLETE AN INCOME TAX DECLARATION, TUR STATED THAT IN PRINCIPLE ALL FOREIGN FIRMS AND CITIZENS WOULD BE REQUIRED TO COMPLETE THE FORM, AND THAT THE MINISTRY OF FINANCE IS NOW WORKING ON INSTRUCTIONS, WHICH WILL SOON BE PUBLISHED.

9. CONTRACTS AND THE DECREE: THE SOVIETS DECLINED TO STATE CLEARLY WHETHER THE SUPREME SOVIET'S DECREE HAS PRECEDENCE OVER PRIVATE CONTRACTS. ASKED IF A SPECIALIST COULD BE EXEMPTED FROM TAXATION FOR LONGER THAN ONE YEAR BY MEANS OF A CONTRACT, MASLENNIKOV STATED THIS WOULD RAISE QUESTION WHETHER THE CONTRACT HAD BEEN "CORRECTLY" CONCLUDED.

10. APPEAL: MASLENNIKOV INDICATED THAT THE APPEAL PROCEDURE OF THE US-SOVIET CONVENTION, WHICH HE APPLAUDED AS AN EXCELLENT ARTICLE, HAS VNECEDENCE OVER THE DECREE'S PROCEDURE. THEREFORE, US FIRMS AND CITIZENS WILL BE ABLE TO APPEAL TO THE US GOVERNMENT RATHER THAN THE SOVIET GOVERNMENT.

11. US GOVERNMENT OFFICIALS; MASLENNIKOV INDICATED
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 MOSCOW 13635 02 OF 03 141406Z

THAT US GOVERNMENT OFFICIALS WITHOUT QUESTION WILL NOT
BE LIABLE TO THE TAX. (WE DID NOT RAISE THE QUESTION
OF WORKING DEPENDENTS, NANNIES, ETC.)

12. MOTIVES: MASLENNIKOV STATED THAT THE DECREE ON
TAXATION HAD BEEN ADOPTED TO DEFEND SOVIET INTERESTS,
SINCE SOVIET CITIZENS AND FIRMS ABROAD ARE SUBJECT TO
HIGH TAXES.

13. COMMENT: WE PRESUME THAT MOST AMERICAN COMPANIES
WITH REPRESENTATIONAL OFFICES IN MOSCOW WILL COMPENSATE
THEIR EMPLOYEES FOR THE NEW AND PERHAPS SUBSTANTIAL
AMOUNT WHICH THEY WILL OWE IN TAXES TO THE SOVIET
GOVERNMENT. IT WILL HENCE BE AN ADDED COST OF DOING
BUSINESS IN THE SOVIET UNION WHICH FIRMS WILL PROBABLY
SEEK TO PASS ALONG TO THE SOVCRTS IN THE FORM OF HIGHER
PRICES. IN MARGINAL CASES, THE EXISTENCE OF THE INCOME
TAX WILL CLEARLY WORK AS A DISINCENTIVE TO FIRMS
CONSIDERING APPLYING FOR ACCREDITATION IN THE USSR AND
PERHAPS EVEN FOR THOSE HERE WHO HAVE BEEN WONDERING ABOUT
THE ECONOMICS OF MAINTAINING A MOSCOW OFFICE. ON
BALANCE, AT LEAST AT THIS POINT, WE DOUBT THAT THE
INCOME TAX FACTOR ALONE WILL LEAD TO ANY EXODUS FROM
MOSCOW.

14. SITUATION FOR ON-SITE CONSTRUCTION PROJECTS IS ALSO
ADVERSELY AFFECTED, FOR MINISTRY OFFICIALS CLEARLY
INSINUATED THAT A CONTRACT EXCLUDING SUCH WORKERS FROM
SOVIET TAXES (AFTER ONE YEAR) WOULD BE OF QUESTIONABLE
VALIDITY. SINCE THE SOVIETS WILL PRESUMABLY HAVE A
DECIDEDLY SMALLER NUMBER OF SUCH SPECIALISTS IN THE U.S.,
WE BELIEVE IT WOULD BE IN THE U.S. INTEREST TO TRY TO
EXTEND THE ONE YEAR PERIOD OF TAX EXEMPTION UNDER THE
TAX CONVENTION TO A LONGER PERIOD, PERHAPS UP TO THREE

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 MOSCOW 13635 03 OF 03 141408Z
ACTION EUR-12

INFO OCT-01 ISO-00 TRSE-00 EB-08 L-03 CPR-02 CA-01

SCS-06 CIAE-00 INR-10 NSAE-00 /043 W

-----052484 141422Z /64

P 141343Z JUN 78

FM AMEMBASSY MOSCOW

TO SECSTATE WASHDC PRIORITY 3070

INFO USDOC WASHDC

AMCONSUL LENINGRAD

LIMITED OFFICIAL USE SECTION 03 OF 03 MOSCOW 13635

YEARS.

15. WHILE THERE IS NO REASON APPARENT TO US WHY AEROFLOT SHOULD BE TREATED DIFFERENTLY THAN INTOURIST IN SO FAR AS U.S. TAXATION IS CONCERNED, WE WOULD LIKE TO BE KEPT INFORMED OF ANY DISCUSSIONS BETWEEN USG AGENCIES AND SOVIET AUTHORITIES ABOUT THIS SUBJECT. IF AEROFLOT CONTINUES TO GENERATE MORE INCOME THAN PAN AMERICAN, MUTUAL TAXATION WOULD THEORETICALLY PROVIDE ONE WAY TO EVEN THE BALANCE SOMEWHAT, BUT WE SUSPECT SOVIETS WOULD FIND A WAY TO SET TAXES ON PAN AM EQUAL TO THOSE ASSESSED ON AEROFLOT. TOON

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TAX LAW, BUSINESSMEN, BUSINESS FIRMS, FOREIGN INVESTMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 14 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978MOSCOW13635
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780248-0655
Format: TEL
From: MOSCOW
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780661/aaaacacr.tel
Line Count: 302
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 58733289-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 STATE 148122, 78 MOSCOW 13227
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2358784
Secure: OPEN
Status: NATIVE
Subject: NEW SOVIET TAXATION DECREE
TAGS: EGEN, ETRD, UR
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/58733289-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014